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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/577,225

07/10/2006

Keiji Katata

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EXAMINER

SHEN, KEZHEN

ART UNIT

PAPER NUMBER

2627

NOTIFICATION DATE

DELIVERY MODE

04/01/2011

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/577,225	KATATA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	KEZHEN SHEN	2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 32-35,38,39,41 and 43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-35,38,39,41 and 43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed has been entered.

### ***Response to Arguments***

Applicant's arguments with respect to claims 32-35, 38-39, 41 and 43 have been considered but are not persuasive.

Regarding claims 32 and 43, applicant argues against individual references failing to address specific which the examiner feels the incorporated references combined as a whole would overcome the present limitation.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Further, in response to applicant's argument that the combination of Suzuki, Takahashi, Ito and Mitusda does not consider the technical problem, the fact that applicant has recognized another advantage which would flow naturally from following

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the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32-35, 38-39, 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki US 2003/0059205 A1, and further in view of Ito et al. US 2003/0137909 A1, Takahashi et al. US 2003/0179669 A1 and Mitsuda et al. US 2003/0193859 A1.

Regarding claim 32, Suzuki teaches an information recording apparatus, comprising: a second controlling device for controlling said recording device to update-record anchor information, which is recorded in anchor area as being a start point in reading file system information for controlling at least one of recording and reproduction of the record information and which is referred to in reading the file system information, into a recording area, whose position is variable, other than the anchor area as the record information after a recording of the border area is finished ([0041] [0042] [0046] [0047]-[0049]); a fifth controlling device for controlling said recording device to record the anchor information into a border- in area and a border-out area and each of which is

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a border management area to manage the border area, in closing the border area ([0047]-[0049]). Suzuki fails to teach a recording device for recording record information onto an information recording medium, comprising a first recording layer and a second recording layer in which the record information can be recorded; a first controlling device for controlling said recording device to record the record information alternately into said first recording layer and said second recording layer in an opposite track path manner and thereby to form a plurality of border areas, wherein the border area (i) is a recording unit by which the record information is alternately recorded and (ii) includes a first area portion in the first recording layer and a second area portion in the second recording layer whose radius position is substantially same as that of the first area portion; a third controlling device for controlling said recording device to record four update block sector pointers, each of which indicates an address value of the recording area other than the anchor area in which the anchor information is update-recorded; and a fourth controlling device for controlling said recording device to record four update block sector effective flags, each of which corresponds to respective one of the update block sector pointers and each of which indicates whether or not the anchor information is update-recorded into the recording area other than the anchor area.

However, in the same field of endeavor, Ito et al. teach a dual layer disc and the recording path to be in an opposite track path (Fig. 4C, [0009] opposite track arrangement). wherein the border area includes a first area portion in the first recording layer and a second area portion in the second recording layer whose radius position is substantially same as that of the first area portion (12 of Fig. 6, [0072], [0074] defect

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management region), at least one of said first recording layer and said second recording layer comprises a pointer recording area (20 of Fig. 6, [0072] DDS), at least one of said first recording layer and said second layer comprises a flag area (20 of Fig. 6, [0072] DDS). Therefore, one of ordinary skill in the art would have found it obvious to combine the teachings of the anchor area and update area as taught by Suzuki with the teachings of a dual layer disc and recording the disc in a opposite track path manner as taught by Ito et al. for the purpose of including anchor area update area on a dual layer disc, opposite track path and recording data on a first and second recording layer with flag area for the benefit of increasing data density on the disc (Ito et al. [0004]). Suzuki with Ito et al. still fail to teach an update area which is different from the anchor area, to record therein four update block sector pointers each of which indicates an address value of the update area in which the anchor information is update-recorded and the flag area to record therein four update block sector effective flags each of which corresponds to respective one of the update block sector pointers and each of which indicates whether or not the anchor information is update-recorded into the update area.

However, in the same field of endeavor, Takahashi et al. teach a system of an anchor to a defect list which identifies defects in the disc along with a first and second update times information representing the number of times which a defect list has been updated and for updating the latest defect entry which is included in the anchor (133, 126 and 152 of Fig. 1, Fig. 5, [0065], [0081], [0084], [0087], [0089]), and to record therein four update block sector pointers each of which indicates an address value of the update area in which the anchor information is update-recorded (104, 105, 108, 109,

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126 and 151 of Fig. 1, [0119], [0130] anchor identifier) and the flag area to record therein four update block sector effective flags each of which corresponds to respective one of the update block sector pointers (133 and 152 of Fig. 1, [0130], first and second update times information) and each of which indicates whether or not the anchor information is update-recorded into the update area ([0125], S402 and S403 of Fig. 4, [0182] – [0183] anchor information is determined to be matched and updated). Further, Takahashi et al. teach a method of updating the position of a second update times information which allows the flag area to move depending on the number of defective entries (Figs. 6-8 [0232] - [0252] the 2<sup>nd</sup> update times information is variable). Takahashi et al. teach this system to overcome the problem of updating accurately when large amounts of information on a disc, such as the double layer disc presented by applicants, become harder to manage ([0027] – [0045]). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of information recording medium as taught by Suzuki with Applicants' admitted prior art with the teachings of two updates lists both used to update defect list information, record block sector pointers, a flag area and an update whose position is variable as taught by Takahashi et al. as a whole for the purpose of including two update lists which are on different areas on the disc used to update the anchor information and address and flag information for the benefit updating accurate information on the disc and allow proper user data reproduction (Takahashi et al., Fig. 10, [0309] – [0316]).

Further, Mitsuda et al. teaches an update flag to indicate an update in a managing area (Fig. 3, [0026], [0028] – [0035]). Therefore, one of ordinary skill in the art

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would have found it obvious to combine the teachings of the anchor area and update area as taught by Suzuki, Takahashi et al. and Ito et al. with teachings of an update flag area to indicate an anchor information update as taught by Mitsuda et al. for the benefit of managing update data of the recording medium.

Regarding claim 33, Suzuki teaches the information recording apparatus according to claim 32, wherein said second controlling device controls said recording device to update-record the anchor information into at least one portion of a user data area to record therein the record information (Figs. 2A-2D, the anchor is inside the data area, [0047]-[0049]).

Regarding claim 34, Suzuki teaches the information recording apparatus according to claim 33, wherein said second controlling device controls said recording device to update-record the anchor information into the at least one portion of the user data area before closing the border area ([0047]-[0049]).

Regarding claim 35, Suzuki teaches the information recording apparatus according to claim 32, wherein said second controlling device controls said recording device to update-record the anchor information into the border management ([0047]-[0049]).

Regarding claim 38, Suzuki teaches the information recording apparatus according to claim 32, wherein said third controlling device controls said recording device to record the update block sector pointers into a recording management area to manage the recording of the record information ([0042] the anchor address which later may be updated is first read through the information recording medium).



Regarding claim 39, Suzuki fails to teach the information recording apparatus according to claim 32, wherein said second controlling device controls said recording device to update-record the anchor information into a recording area which follows a recording area in which the record information is already recorded, in completing the recording of the record information, and said information recording apparatus further comprises a judging device for judging whether or not the address value indicated by at least one of the update block sector pointers is equal to an address value of a recording area in which the record information is lastly recorded.

However, in the same field of endeavor, Takahashi et al. teach a system of an anchor to a defect list which identifies defects in the disc along with a first and second update times information representing the number of times which a defect list has been updated and for updating the latest defect entry which is included in the anchor (133, 126 and 152 of Fig. 1, Fig. 5, [0065], [0081], [0084], [0087], [0089]), and to record therein four update block sector pointers each of which indicates an address value of the update area in which the anchor information is update-recorded (104, 105, 108, 109, 126 and 151 of Fig. 1, [0119], [0130] anchor identifier) and the flag area to record therein four update block sector effective flags each of which corresponds to respective one of the update block sector pointers (133 and 152 of Fig. 1, [0130], first and second update times information) and each of which indicates whether or not the anchor information is update-recorded into the update area ([0125], S402 and S403 of Fig. 4, [0182] – [0183] anchor information is determined to be matched and updated). Further, Takahashi et al. teach a method of updating the position of a second update times

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information which allows the flag area to move depending on the number of defective entries (Figs. 6-8 [0232] - [0252] the 2<sup>nd</sup> update times information is variable). Takahashi et al. teach this system to overcome the problem of updating accurately when large amounts of information on a disc, such as the double layer disc presented by applicants, become harder to manage ([0027] – [0045]). Therefore, it would have been obvious to one of ordinary skill in the art to combine the teachings of information recording medium as taught by Suzuki with Applicants' admitted prior art with the teachings of two update lists both used to update defect list information, record block sector pointers, a flag area and an update whose position is variable as taught by Takahashi et al. as a whole for the purpose of including two update lists which are on different areas on the disc used to update the anchor information and address and flag information for the benefit of updating accurate information on the disc and allow proper user data reproduction (Takahashi et al., Fig. 10, [0309] – [0316]).

Regarding claim 41, Suzuki fails to teach the information recording apparatus according to claim 32, wherein said fourth controlling device controls said recording device to record the update block sector effective flags into a border management area to manage the border area.

However, Mitsuda et al. teach a controller to include the flag area within a management area (3 of Fig. 1, [0024], 12 and 13 of Fig. 2, [0025] – [0026]). Therefore, one of ordinary skill in the art would have found it obvious to combine the teachings of the anchor area and update area as taught by Suzuki with teachings of an update flag

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area to be within a management area as taught by Mitsuda et al. for the benefit of managing update data of the recording medium.

Regarding claim 43, the limitations have been analyzed and rejected with respect to the rejection as set forth above in claim 32. It would have been obvious to one of ordinary skill in the art to incorporate the method of utilizing an apparatus along with the apparatus.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEZHEN SHEN whose telephone number is (571)270-1815. The examiner can normally be reached on 10am-6pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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